

1 MICHAEL N. BEEDE, ESQ.  
2 Nevada State Bar No. 13068  
3 ZACHARY CLAYTON, ESQ.  
4 Nevada State Bar No. 13464  
5 **THE LAW OFFICE OF MIKE BEEDE, PLLC**  
6 2300 W Sahara Ave., Suite 420  
7 Las Vegas, NV 89102  
8 Telephone (702) 473-8406  
9 Facsimile (702) 832-0248  
10 *Attorney for Plaintiff*

11 UNITED STATES DISTRICT COURT

12 DISTRICT OF NEVADA

13 PHILIPPE LAURENT,

14 CASE NO. 2:15-cv-02495

15 Plaintiffs,

16 vs.

17 ARTHUR V. BUSH; LORA V. BUSH;  
18 CITIBANK, N.A., AS TRUSTEE FOR THE  
19 REGISTERED HOLDERS OF THE PHHMC  
20 MORTGAGE PASS-THROUGH  
21 CERTIFICATE SERIES 2007-6; PHH  
22 MORTGAGE CORPORATION;  
23 MORTGAGE ELECTRONIC  
24 REGISTRATION SYSTEMS, INC., DOES 1  
25 through 10, inclusive; ROE  
26 CORPORATIONS 1 through 10, inclusive,  
27 Defendants.

28

**EX PARTE MOTION TO ENLARGE  
TIME FOR SERVICE OF PROCESS  
AND FOR AN ORDER FOR SERVICE  
BY PUBLICATION**

29  
30 COMES NOW the Plaintiff, PHILIPPE LAURENT, by and through his attorney,  
31 Michael Beede, Esq. of the Law Offices of Mike Beede, and moves this Honorable Court Ex  
32 Parte, for an Order to Enlarge Time for Service of Process and for Service By Publication for  
33 Defendant, Lora V. Bush (hereafter, "Defendant").

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35 ///

This Ex Parte Motion is based upon the pleadings and papers on file in this action, Memorandum of Points and Authorities, the affidavits and exhibits attached hereto and incorporated herein by reference.

Dated this 27th day of January, 2016.

## THE LAW OFFICE OF MIKE BEEDE, PLLC

/s/Michael Beede

BY: \_\_\_\_\_

Michael N. Beede, Esq.  
Nevada State Bar No. 13068  
Zachary Clayton, Esq.  
Nevada State Bar No. 13464  
2300 W Sahara Ave., Suite 420  
Las Vegas, NV 89102  
Telephone (702) 473-8406  
Facsimile (702) 832-0248  
*Attorney for Plaintiff*

**AFFIDAVIT OF MICHAEL BEEDE, ESQ.**

STATE OF NEVADA )  
 ) SS.  
COUNTY OF CLARK )

Michael Beede, Esq., being first duly sworn, deposes and states that:

1. Under penalties of perjury, I swear that I am an attorney licensed to practice law in the State of Nevada and I'm employed by The Law Offices of Mike Beede, PLLC. As such, I am the attorney for the Plaintiff in the above-entitled case.

2. I hereby submit this Affidavit in Support of Plaintiff's Ex Parte Application to Extend Time for Service of Process and for Service of Process by Publication.

3. I have read Plaintiff's Ex Parte Application to Extend Time for Service of Process and for Service of Process by Publication, the facts of which are incorporated as those fully set forth herein and I believe its contents to be true and as to those statements and allegations made upon information and belief, I believe them to be true.

FURTHER AFFIANT SAYETH NAUGHT.



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MICHAEL BEEDE, ESQ.

SUBSCRIBED and SWORN to before me  
this 27 day of January, 2016.

NOTARY PUBLIC in and for said  
County and State



**I.**

This is a real property action seeking quiet title on the property located at 2837 Maryland Hills Drive Henderson NV 89052, which was purchased at a Homeowners Association foreclosure sale on May 15, 2013. On November 12, 2015, Plaintiff filed their Complaint; thus, the last day to serve process is March 11, 2016.

On January 15, 2016, an Affidavit of Due Diligence was filed. The Plaintiff has attempted to serve the Defendant at 2837 Maryland Hills Drive and 8610 Maryland Parkway #3033, their last known address with no success. (See Affidavit of Due Diligence, attached hereto as exhibit 1.) Inasmuch as the last day in which to serve process is fast-approaching, Plaintiff seeks an Order of this Court to Enlarge Time for Service of Process and to Serve Process by Publication.

## **POINTS AND AUTHORITIES**

### **II.**

NRCP 4(i) provides authority for the Court to enlarge time for service of process. It provides,

If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion, unless the party on whose behalf such service was required files a motion to enlarge the time for service and shows good cause why such service was not made within that period. If the party on whose behalf such service was required fails to file a motion to enlarge the time for service before the 120-day service period expires, the court shall take that failure into consideration in determining good cause for an extension of time. Upon a showing of good cause, the court shall extend the time for service and set a reasonable date by which service should be made.

1       Despite diligent efforts, Plaintiff has been unable to locate Defendants in order to  
2 effectuate service of process. Accordingly, Plaintiff seeks an extension of time in the amount of  
3 90 days in which to serve process by publication.  
4

5       In addition to attempting personal service of process on Defendant, Plaintiff has mailed  
6 Defendant at his last known address, a copy of the Summons and Complaint were sent by regular  
7 mail addressed to Defendants.

8       Inasmuch as Defendant cannot be found within the State of Nevada, Rule 4 permits this  
9 Court to Order Service of Publication. It provides as follows:  
10

11       (i) General. When the person on whom service is to be made  
12 resides out of the state, or has departed from the state, or cannot,  
13 after due diligence, be found within the state, or conceals himself  
14 to avoid the service of summons, and the fact shall appear, by  
15 affidavit, to the satisfaction of the court or judge thereof, and it  
16 shall appear, either by affidavit or by a verified complaint on file,  
17 that a cause of action exist against the defendant in respect to  
18 whom the service is to be made, and that he is a necessary or  
19 proper party to the action, such court or judge may grant an order  
20 that the service be made by the publication of summons.

21       Provided, when said affidavit is based on the fact that the party on  
22 whom service is to be made resides out of the state, and the present  
23 address of the party is unknown, it shall be a sufficient showing of  
24 such fact if the affiant shall state generally in such affidavit that at  
25 a previous time such person resided out of this state in a certain  
26 place (naming the place and stating the latest date known to  
27 Affiant when such party so resided there); that such place is the  
28 last place in which such party resided to the knowledge of Affiant;  
      that such party no longer resides at such place; that Affiant does  
      not know the present place of residence of such party or where  
      such party can be found; and that Affiant does not know and has  
      never been informed and has no reason to believe that such party  
      now resides in this state; and, in such case, it shall be presumed  
      that such party still resides and remains out of the state, and such  
      affidavit shall be deemed to be a sufficient showing of due  
      diligence to find the defendant. This rule shall apply to all manner  
      of civil actions, including those for divorce.

29       ...

1  
2       **(iii) Publication.** The order shall direct the publication to be  
3        made in a newspaper, published in the State of Nevada, to be  
4        designated by the court or judge thereof, for a period of 4 weeks,  
5        and at least once a week during said time. In addition to in-state  
6        publication, where the present residence of the defendant is  
7        unknown the order may also direct that publication be made in a  
8        newspaper published outside the State of Nevada whenever the  
9        court is of the opinion that such publication is necessary to give  
10        notice that is reasonably calculated to give a defendant actual  
11        notice of the proceedings. In case of publication, where the  
12        residence of a nonresident or absent defendant is known, the court  
13        or judge shall also direct a copy of the summons and complaint to  
14        be deposited in the post office, directed to the person to be served  
15        at the person's place of residence. The service of summons shall be  
16        deemed complete in cases of publication at the expiration of 4  
17        weeks from the first publication, and in cases when a deposit of a  
18        copy of the summons and complaint in the post office is also  
19        required, at the expiration of 4 weeks from such deposit.

20  
21        In the matter of Foster v. Lewis, 78 Nev. 330; 372 P.2d 679 (1962), although the Court  
22        upheld the lower court's finding that no personal service of summons was made on either of the  
23        respondents, although service by publication had been granted, when referring to NRCP  
24        4(e)(1)(i), the Court found that:

25  
26        "The proviso of this rule can be utilized only when the affidavit  
27        states that the party on whom service is to be made resides out of  
28        the state (which the affidavit here does) and that the present  
29        address of the party is unknown (the affidavit is silent on this  
30        point). Since the affidavit does not contain the requirements of the  
31        proviso, it is necessary to ascertain if compliance has been made  
32        with the requirements of the first paragraph of the section. This  
33        states, in part: "When the person on whom service is to be made  
34        resides out of the state\*\*\* and the fact shall appear, by affidavit, to  
35        the satisfaction of the court or judge thereof\*\*\*."

36  
37        In the present case, the Affidavit of Due Diligence complies with the requirements of  
38        NRCP 4. Furthermore, Plaintiff has properly exercised due diligence in accordance with NRCP  
39        4(e)(1)(i) in an attempt to locate the Defendant.

1 Plaintiff has endeavored to effect personal service on all of the defendants in this action  
2 because the primary concern since the outset of this case has been the effort to identify those  
3 with possible claims to and quiet title to real property in the State of Nevada. Plaintiff's  
4 diligence in attempting service coupled with the defendants' deliberate attempts to avoid service  
5 warrant an enlargement of the time permitted to serve the remaining defendants. The Nevada  
6 Supreme Court in *Scrimmer v. Eighth Jud. Dist.*, 116 Nev. 507, 998 P.2d 1190 (2000), set out the  
7 requirement that extensions in time for service be granted based upon a showing of "good  
8 cause." The court laid out several factors for determining if good cause exists:

9 We conclude that a number of considerations may govern a district court's  
10 analysis of good cause under NRCP 4(i), and we emphasize that no single  
11 consideration is controlling. Appropriate considerations include: (1) difficulties in  
12 locating the defendant, (2) the defendant's efforts at evading service or  
13 concealment of improper service until after the 120-day period has lapsed, (3) the  
14 plaintiff's diligence in attempting to serve the defendant, (4) difficulties  
15 encountered by counsel in attempting service, (5) the running of the applicable  
16 statute of limitations, (6) the parties' good faith attempts to settle the litigation  
17 during the 120-day period, (7) the lapse of time between the end of the 120-day  
18 period and the actual service of process on the defendant, (8) the prejudice to the  
19 defendant caused by the plaintiff's delay in serving process, (9) the defendant's  
20 knowledge of the existence of the lawsuit, and (10) any extensions of time for  
21 service granted by the district court.

22 In applying the *Scrimmer* factors, good cause for an extension exists here, as Plaintiff has  
23 had substantial difficulties in locating the remaining Defendants, Plaintiff believes that  
24 Defendants are aware, or should be aware of this lawsuit but are intentionally attempting to  
25 evade service, Plaintiff has exercised diligence in attempting to effect service by taking the  
26 following steps: two (2) separate attempts at the last known physical address, plus performing  
27 Social/ Name Trace and search of the County Assessor, DMV, Voter Registration and Telephone  
28 directory, with confirmation of last known address. Plaintiff's attorney has encountered  
significant difficulty in serving the defendant, as personal service has been attempted on two (2)  
occasions at the defendant's last known address, and two (2) at 2837 Maryland Hills Drive and  
8610 Maryland Parkway #3033. The Defendant will suffer no prejudice, as Plaintiff could  
simply reassert her claims at issue if the complaint were dismissed without prejudice. Inasmuch

1 as the last day to serve process is March 11, 2016, this Court should enter an order to enlarge  
2 time to allow service by publication and an order for service by publication.

3 **III.**

4 **CONCLUSION**

5 Plaintiff has satisfied the requirements of NRCP 4(e)(1), and an Order to Enlarge Time  
6 for Service of Process and an Order for Service by Publication should be entered forthwith  
7 against Defendant, Lora V. Bush.

8

9 Dated this 27th day of January, 2016.

10 THE LAW OFFICE OF MIKE BEEDE, PLLC

11 /s/Michael Beede

12 BY: \_\_\_\_\_

13 Michael N. Beede, Esq.  
14 Nevada State Bar No. 13068  
15 Zachary Clayton, Esq.  
16 Nevada State Bar No. 13464  
17 2300 W Sahara Ave., Suite 420  
18 Las Vegas, NV 89102  
19 Telephone (702) 473-8406  
20 Facsimile (702) 832-0248  
21 *Attorney for Plaintiff*

# EXHIBIT 1

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

3 PHILLIPE LAURENT,

4 Plaintiff(s),

vs.

6 ARTHUR V. BUSH;  
et al

7 *et al.*, Defendant(s).

Case Number: 2:15-cv-02495

Dept. No:

Docket No:

## **AFFIDAVIT OF DUE DILIGENCE**

17 STATE OF NEVADA )  
18 COUNTY OF CLARK ) SS.

19 Karie Castle, being first duly sworn, deposes and says; that affiant is and was on the dates when  
20 service was attempted of the within: **SUMMONS AND COMPLAINT**,  
21 a citizen of the United States, over 18 years of age, and not a party to, nor interested in the  
22 within action; that affiant received the above named document(s) and attempted to personally  
23 serve them/have them served upon: **LORA V. BUSH**  
24 subject(s), during the period of November 24, 2015 through December 14, 2015 at his/her last  
25 known address(es) of: 2837 Maryland Hills Drive and 8610 Maryland Parkway #3033  
26 in the City of Henderson and Las Vegas, County of Clark, State of Nevada, without success in  
27 locating said subject(s). Affiant was not able to serve subject(s)/have subject(s) served for the  
28 following reasons:

1 11-30-15 at 7:01 p.m. – Per male occupant at 2837 Maryland Hills Drive, he moved here  
2 three years ago. Subject is unknown.

3 12-14-15 at 6:13 p.m. – Per male occupant at 8610 Maryland Parkway #3033, he knows  
4 subject, but subject does not live here. Forwarding is unknown.

5 Affiant performed Social / Name trace and searched County Assessor, DMV, Voter  
6 Registration, and Telephone Directory. The within stated addresses are the last known  
7 and/or most current for subject. Additionally, affiant was unable to locate Place of  
8 Employment for subject.

9 Affiant, on the basis of the previous information, was unable to locate / serve subject(s).

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Karie Castle #R002343

Attorney's Process

Nevada License No. 429

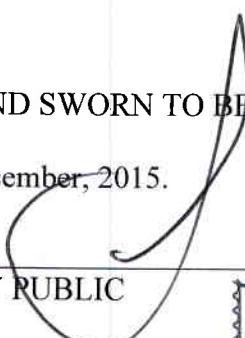
320 E. Warm Springs Rd., #4A-14

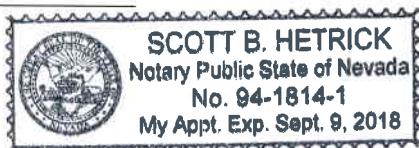
Las Vegas, NV 89119

(702) 547-9036

SUBSCRIBED AND SWORN TO BEFORE me

this 21<sup>st</sup> day of December, 2015.

 NOTARY PUBLIC



SCOTT B. HETRICK  
Notary Public State of Nevada  
No. 94-1814-1  
My Appt. Exp. Sept. 9, 2018

1 **ORD**

2 MICHAEL N. BEEDE, ESQ.

3 Nevada State Bar No. 13068

3 ZACHARY CLAYTON, ESQ.

4 Nevada State Bar No. 13464

4 **THE LAW OFFICE OF MIKE BEEDE, PLLC**

5 2300 W Sahara Ave., Suite 420

5 Las Vegas, NV 89102

6 Telephone (702) 473-8406

6 Facsimile (702) 832-0248

7 *Attorney for Plaintiff PHILIPPE LAURENT*

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 PHILIPPE LAURENT,

CASE NO. 2:15-cv-02495

11 Plaintiffs,

12 vs.

13 ARTHUR V. BUSH; LORA V. BUSH;  
14 CITIBANK, N.A., AS TRUSTEE FOR THE  
15 REGISTERED HOLDERS OF THE PHHMC  
16 MORTGAGE PASS-THROUGH  
17 CERTIFICATE SERIES 2007-6; PHH  
18 MORTGAGE CORPORATION;  
19 MORTGAGE ELECTRONIC  
20 REGISTRATION SYSTEMS, INC., DOES 1  
through 10, inclusive; ROE  
21 CORPORATIONS 1 through 10, inclusive,

**PROPOSED ORDER GRANTING EX  
PARTE MOTION TO ENLARGE  
TIME FOR SERVICE OF PROCESS  
AND FOR AN ORDER FOR SERVICE  
BY PUBLICATION AS TO LORA V.  
BUSH.**

22 Defendants.

23 **IT IS ORDERED** that the Plaintiff shall be granted an additional 60 days to serve the  
24 Defendant, LORA V. BUSH (hereafter, "Defendant"); and

25 **IT IS FURTHER ORDERED**, that the Defendant may be served by Publication of  
26 the Summons and Complaint at least once a week for four (4) consecutive weeks in a  
27 newspaper of general circulation, Nevada Legal News, published in Clark County, Nevada,  
28 and in addition thereto, a copy of the Summons and Complaint shall be forthwith mailed to

1 the Defendant at their last known address, 2837 Maryland Hills Drive and 8610 Maryland  
2 Parkway #3033, first class certified mail, postage prepaid.

3

4 Dated this 28th day of January, 2016.

5

6 Submitted by:

7 /s/Michael Beede

9 Michael N. Beede, Esq.  
10 Nevada State Bar No. 13068  
11 Zachary Clayton, Esq.  
12 Nevada State Bar No. 13464  
13 2300 W Sahara Ave., Suite 420  
14 Las Vegas, NV 89102  
15 Telephone (702) 473-8406  
16 Facsimile (702) 832-0248  
17 *Attorney for Plaintiff PHILIPPE LAURENT*



18 RICHARD F. BOULWARE, II

19 United States District Judge

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